



APPROVED

**BOARD OF ADJUSTMENT
CITY OF SCOTTSDALE
CITY HALL KIVA
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
FEBRUARY 1, 2006**

PRESENT: Carol Perica, Chair
Ernest Jones, Board Member
Neal Waldman, Board Member
Terry Kuhstoss, Board Member
Howard Myers, Board Member
James Vail, Board Member

ABSENT: Jennifer Goralski, Vice-Chair

STAFF PRESENT: Tim Curtis
Sherry Scott
Dan Symer
Kira Wauwie
Al Ward

CALL TO ORDER

The study session of the Scottsdale Board of Adjustment was called to order by Chair Perica at 6:03 p.m.

ROLL CALL

A formal roll call confirmed the members present as stated above.

1. ADMINISTRATIVE ITEMS

Ms. Scott clarified for Chair Perica that the memorandum containing the Board of Adjustment's rules of Procedure Amendment is being added to the December 7, 2005 minutes, which therefore need to be re-approved.

Approval of Minutes

1. December 7, 2005 Board of Adjustment Study Session Minutes (Re-approval to include memo regarding the Board of Adjustment's Rules of Procedure Amendment)

BOARD MEMBER VAIL MOVED TO APPROVE THE DECEMBER 7, 2005 MINUTES OF THE STUDY SESSION WITH THE ADDITION OF MEMO REGARDING THE BOARD OF ADJUSTMENT'S RULES OF PROCEDURE AMENDMENT. SECONDED BY BOARD MEMBER KUHSTOSS, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0).

2. December 7, 2005 Board of Adjustment Minutes (Re-approval to include memo regarding the Board of Adjustment's Rules of Procedure Amendment)

BOARD MEMBER KUHSTOSS MOVED TO APPROVE THE DECEMBER 7, 2005 MINUTES OF THE REGULAR MEETING WITH THE ADDITION OF MEMO REGARDING THE BOARD OF ADJUSTMENT'S RULES OF PROCEDURE AMENDMENT. SECONDED BY BOARD MEMBER MYERS, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0).

3. January 4, 2006 Board of Adjustment Study Session Minutes

BOARD MEMBER KUHSTOSS MOVED TO APPROVE THE JANUARY 4, 2006 BOARD OF ADJUSTMENT STUDY SESSION MINUTES AS PRESENTED. SECONDED BY BOARD MEMBER WALDMAN, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0).

4. January 4, 2006 Board of Adjustment Minutes

BOARD MEMBER KUHSTOSS MOVED TO APPROVE THE JANUARY 4, 2006 BOARD OF ADJUSTMENT REGULAR SESSION MINUTES AS PRESENTED. SECONDED BY BOARD MEMBER WALDMAN, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

Chair Perica read the opening statement that describes the role of the Board of Adjustment and the procedures used in conducting this meeting.

5. 11-BA-2005 Lamalfa Residence

Request a Variance from Article VI. Section 6.1004.B regarding walls, fences, hedges, Article VI. Section 6.1071 regarding walls and Article VII. Section 7.200.A regarding accessory buildings.

Kira Wauwie addressed the Board. Highlights of the presentation identified that a variance is being requested due to existing five foot fences in the front yard, site walls less than fifteen feet from the property lines, and accessory buildings in the required front yard. Ms. Wauwie presented a zoning map depicting the designation of R1-190, ESL, and Foothills overlay. She noted that these districts

allow for large lot development, encouraging preservation of natural features and a rural character.

Ms. Wauwie demonstrated the reasons for the inability to place the equestrian facilities elsewhere on the property. She noted a wash running through the property and highlighted the specific areas of the variance.

Ms. Wauwie noted special circumstances because the wash, a natural feature, splits the large lot, limiting the placement of accessory improvements. She confirmed that Applicant's use privileges would be reduced if the variance is not granted. Ms. Wauwie clarified what the detrimental criteria are, noting the site is located in an area of large lots, many of which are equestrian facilities.

In response to inquiry by Board Member Waldman, Ms. Wauwie suggested that the Applicant may know when the site was originally developed. Ms. Wauwie reported in response to question by Chair Perica that the house has existed since at least 1999, improvements including the detached garage and fenced equestrian facilities were in place in 2003, and covered horse stalls were placed on the site sometime between the end of 2002 and 2004. She clarified that there are entrances to the property both from Morning Vista and Dixileta.

Anthony Lamalfa corrected Ms. Wauwie, noting that the entrance to the property is off of Dixileta and the side of the property near Morning Vista he considers the back. Presenting an aerial view, Mr. Lamalfa identified shade structures that he installed for their approximately thirty animals along with the pre-existing structures and noted the difficulty that would be presented if they were to be moved. He opined that trying to move the structures would devalue the property and make it difficult to own horses. He noted that neighbors have been notified and he is aware of no negative responses.

In response to Board Member Waldman's inquiry about whether the property was in Scottsdale when the original improvements were installed, Mr. Lamalfa responded that he installed the two shade structures in July 2003.

Mr. Lamalfa clarified for Board Member Vail that when he purchased the property in 2003 all improvements existed, with the exception of the two shade structures, which he installed. Mr. Lamalfa also noted for Board Member Vail that all NAOS violations were corrected to the satisfaction of the City. He reviewed the inconveniences that would be presented if the facilities had to be moved and remarked that if forced to take the horse facility out they would think seriously about moving.

Mr. Lamalfa confirmed for Chair Perica that although the property was two parcels originally, he has no intention of dividing the property.

Chair Perica noted that Mr. Ray Weisman, residing at 29392 N. 84th Street, submitted a card expressing his support of the variance.

Mr. James Heitel, a member of the Planning Commission and a neighbor to Mr. Lamalfa, residing at 8485 East Dixileta, spoke in support of granting the variance.

He opined that staff findings were consistent with the situation. Mr. Heitel elaborated on the history of the property and his personal involvement with the original lot split. He stressed that the Foothills Overlay encourages this kind of development and clustering. Mr. Heitel reiterated the fact that in this case there are special circumstances that are out of the owner's control.

Board Member Vail noted his support for the appeal. He remarked that he sees no reason for any disruption of the property as it is conveyed.

Board Member Jones expressed support of the application, noting that he drove by the property and was impressed with what has been done.

Board Member Myers remarked that he has trouble holding property owners responsible for issues not created by them and not identified before they bought the property. He noted that he personally measured the fence in question and found it to be only four feet high. He opined that the four criteria had been met and that it is important to recognize that this is an equestrian area and encouraged to remain that way. Board Member Myers commented that the City needs to get more organized and provide more clarification of circulation plans for developing areas. He reiterated his support for the application.

Board Member Waldman commented that all of the criteria have been met. He opined that moving anything would create more problems than not moving it, noting that the City of Scottsdale is trying to keep the area equestrian. He expressed wholehearted support of the application.

Board Member Kuhstoss remarked that the four criteria had not been met; noting that to allow a wrong to continue because someone else was initially responsible is not meeting the criteria. She opined there is enough property for the same enjoyment of rights and privileges on the rest of the property without any variances and therefore she would be voting against the request.

Chair Perica agreed with the majority of Board Members that circumstances were present prior to Mr. Lamalfa purchasing the property. She noted that she would be in favor of the variance.

BOARD MEMBER MYERS MOVED TO APPROVE 11-BA-2005. SECONDED BY BOARD MEMBER JONES, THE MOTION CARRIED WITH A VOTE OF FIVE (5) TO ONE (1). BOARD MEMBER KUHSTOSS DISSENTED.

6. 16-BA-2005 Ardizzone Residence

Request for a variance from Article V. Section 5.034.E.1.c regarding the required front yard of sixty (60) feet shall be provided on each street for a corner lot.

Chair Perica noted that Board Member Waldman has recused himself from this case.

Chair Perica stated that the Applicant has the right to continue the case because the complete Board was not present. However, there is no guarantee of a full Board at any time. Mr. Ardizzone chose to proceed.

Dan Symer addressed the Board. Highlights of his presentation included a site plan indicating the proposed improvements, NAOS requirements, and which portions of the property would be developable if not granted the proposed improvements. Mr. Symer noted 1) special circumstances, because it is required that the wash be preserved; 2) that if approved, approximately one-third of the lot would be indicated as NAOS drainage easement; 3) that there are extenuating circumstances beyond the control of Applicant, because the wash is naturally occurring; and 4) by not allowing the variance, Applicant would have to disturb the washes which would have a negative impact.

Mr. Ardizzone noted that the wash is an AO flood zone and that he has owned the property for six years.

Mr. Robert Orlando, civil engineer, addressed the Board, explaining methods to protect the house from flooding. Mr. Orlando clarified for Board Member Vail that a site wall would protect the property from erosion. He verified for Board Member Myers that the house cannot be placed anywhere else. In response to inquiry by Chair Perica, Mr. Orlando noted that the site wall would be constructed from concrete and be approximately five feet high because of the pool and the protection portion of it would not be visible from the wash.

Mr. Ardizzone reiterated the four criteria points mentioned by Mr. Symer.

Chair Perica noted that no cards were received.

Board Member Myers commended Mr. Ardizzone for designing the house to fit into the space. He opined that it meets all four of the criteria and therefore he will support the variance.

Board Member Kuhstoss opined that the property could be reconfigured to relieve the need for a variance and that there is a self-created need for a variance. She noted that she would be voting against approval.

Board Member Vail agreed with Board Member Myers that there was a great deal of effort put into fitting the design into the property while also conserving the wash. He noted that he would support the variance.

Board Member Jones agreed with his colleagues and is impressed with the effort. He noted that he would be in support of the variance.

Chair Perica agreed with the majority of Board Members and noted she would be in support of the variance.

BOARD MEMBER MYERS MOVED TO APPROVE 16-BA-2005. SECONDED BY BOARD MEMBER VAIL, THE MOTION PASSED WITH A VOTE OF FOUR

(4) TO ONE (1). BOARD MEMBER WALDMAN WAS RECUSED. BOARD MEMBER KUHSTOSS DISSENTED.

7. 17-BA-2005 Gruenemeier Residence

Request for a variance from Article V. Section 5.504E.2.a regarding side yard setback and Article V. Section 5.504.F.2 regarding distance between main buildings.

Chair Perica stated that the Applicant has the right to continue the case because the complete Board is not present. However, there is no guarantee of a full Board at any time. Applicant chose to proceed.

Al Ward addressed the Board. Highlights of his presentation included an aerial view of the area. He remarked that the zoning ordinance requires a minimum of five-foot setback and an aggregate of fourteen feet, noting that the existing residence separation is ten feet. He noted that applicant is asking for a variance in order to maintain the same distance the house currently has. Mr. Ward summarized that the Applicant did not create the problem because it was created in 1961 when the house was annexed to the City and authorizing the variance would not be detrimental to persons residing in the area.

Mr. Ward confirmed for Board Member Vail that R1-7 is common in this area. He also noted for Board Member Waldman that the entire neighborhood consists of 6600 square foot lots that are 110x60.

Board Member Jones commented that he is impressed with what is being done in the neighborhood. He opined that the application satisfies the four criteria.

Carlos Montoya, architect representing Applicant, reviewed the architectural plans for the addition, noting that if the design were shifted over it would not be structurally correct.

Mr. Gruenemeier addressed the Board noting that he too appreciates the refurbishing in the area. He expressed concern that if the variance is not granted, his house would be in an L-shape.

Mr. Montoya clarified for Board Member Vail where the existing kitchen was located and how the floor plan would change if the variance were not granted.

Board Member Kuhstoss opined that all four criteria had been met. She noted that the new standards don't seem to apply very well to the older areas and she will be supporting the variance.

Board Member Waldman commended Mr. Gruenemeier for helping to renew the area and apologized for any problems he has had with the City. He opined that all criteria were met and noted that he would be supporting the variance.

Board Member Myers noted that the Board of Adjustments often gets cases where they try to apply standards that don't fit. He opined that the City should

look at how they can process these applications without bringing them to the Board of Adjustments. He commended Mr. Gruenemeier for upgrading and noted his support.

Board Member Vail was in concurrence with fellow Board Members. He noted that he was pleased to see the upgrading of the area.

Board Member Jones noted his support of the application.

Board Member Perica concurred with the rest of the Board and noted her support for the variance.

BOARD MEMBER KUHSTOSS MOVED TO SUPPORT THE VARIANCE FOR 17-BA-2005. SECONDED BY BOARD MEMBER JONES, THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

ADJOURNMENT

With no further business to discuss, the study session adjourned at 7:25 p.m.

Respectfully submitted,
A-V Tronics, Inc.